

# STATEMENT OF ASSURANCES

## GENERAL ASSURANCES:

The local education agency (LEA) hereby assures the South Dakota Department of Education that:

1. Each program will be administered in accordance with all applicable statutes, regulations, program plans, and applications.
2. The control of funds provided under each program and title to property acquired with program funds will be in a public agency or in a nonprofit private agency, institution, organization, or Indian tribe, if the law authorizing the program provides for assistance to those entities.
3. The public agency, nonprofit private agency, institution, or organization, or Indian tribe will administer the funds and property to the extent required by the authorizing statutes.
4. The applicant will adopt and use proper methods of administering each such program, including —
  - the enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients responsible for carrying out each program; and
  - the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation.
5. The applicant will cooperate in carrying out any evaluation of each such program conducted by or for the State educational agency, the Secretary, or other Federal officials.
6. The applicant will use such fiscal control and fund accounting procedures as will ensure proper disbursement of, and accounting for, Federal funds paid to the applicant under each such program.
7. The applicant will —
  - submit such reports to the State educational agency (which shall make the reports available to the Governor) and the Secretary as the State educational agency and Secretary may require to enable the State educational agency and the Secretary to perform their duties under each such program; and
  - maintain such records, provide such information, and afford such access to the records as the State educational agency (after consultation with the Governor) or the Secretary may reasonably require to carry out the State educational agency's or the Secretary's duties.
8. Before the application was submitted, the applicant afforded a reasonable opportunity for public comment on the application and considered such comment.
9. Funds will be used to increase the level of State, local, and other non-Federal funds that would, in the absence of federal funds, be made available, and in no case supplant such State, local, and other non-Federal funds.
10. Equitable participation of non-public schools (if any) will be provided. The applicant will consult with officials of non-public schools in a meaningful and timely manner, provide non-public participants genuine access to equitable services and equal expenditure of funds.

## PRO-CHILDREN ACT OF 1994 ASSURANCE

I hereby acknowledge that the LEA of which I am the authorized representative, has adopted the provisions of the Pro-Children Act of 1994. (The Pro-Children Act requires that smoking not be permitted in any indoor facility used routinely or regularly for the provision of "children's services" to persons under age 18, if the services are funded by specified Federal programs either directly or through State or local governments.)

## GUN FREE SCHOOLS ACT ASSURANCE

I hereby acknowledge that the LEA, of which I am the authorized representative, has adopted a Gun Free Policy that is in compliance with SDCL 13-32-4.

## CONSTITUTIONALLY PROTECTED PRAYER IN PUBLIC SCHOOLS CERTIFICATION

I hereby certify that the LEA, of which I am the authorized representative, has no policy that prevents, or otherwise denies participation in, constitutionally protected prayer in its public elementary and secondary schools.

As a condition of receiving federal funds under terms of the Elementary and Secondary Education Act ("ESEA") of 1965, as amended by Section 9524 of the No Child Left Behind Act of 2001, this certification is required by October 1st of each year. The South Dakota Department of Education in its role as the official public education state agency in South Dakota will annually send to the U.S. Secretary of Education a list of those LEAs in South Dakota that have not submitted the required certification or against which complaints have been made that the LEA is not in compliance with this provision.

## TITLE I, PART A ASSURANCES

The local educational agency hereby assures the South Dakota Department of Education that the LEA will:

1. Inform eligible schools and parents of schoolwide program authority and the ability of such schools to consolidate funds from Federal, State, and local sources;
2. Provide technical assistance and support to schoolwide programs;
3. Work in consultation with schools as they develop their schoolwide plans and assist schools as the schools implement schoolwide plans or undertake activities under targeted assistance programs so that each school can make adequate yearly progress (AYP) toward meeting the State content and academic achievement standards;
4. Fulfill such agency's school improvement responsibilities under section 1116 including taking actions under paragraphs (7) and (8) of section 1116(b);
5. Provide services to eligible children attending private elementary schools and secondary schools in accordance with section 1120, and timely and meaningful consultation with private school officials regarding such services;
6. Take into account the experience of model programs for the educationally disadvantaged, and the findings of relevant scientifically based research indicating that services may be most effective if focused on students in the *earliest grades* at schools that receive Title I funds;
7. In the case of a local educational agency that chooses to use funds under this part to provide early childhood development services to low-income children below the age of compulsory school attendance, ensure that such services comply with the performance standards established under section 641A(a) of the Head Start Act;
8. Work in consultation with schools as the schools develop and implement their plans or activities under sections 1118 and 1119;
9. Comply with the requirements of section 1119 regarding the qualifications of teachers and paraprofessionals and professional development;
10. Coordinate and collaborate, to the extent feasible and necessary as determined by the LEA, with the SEA and other agencies providing services to children, youth, and families with respect to a school in school improvement, corrective action, or restructuring under section 1116 if such a school requests assistance from the local educational agency in addressing major factors that have significantly affected student achievement at the school;
11. Inform eligible schools of the local educational agency's authority to obtain waivers on the school's behalf under title IX and, if the State is an Ed-Flex Partnership State, to obtain waivers under the Education Flexibility Partnership Act of 1999;
12. Ensure, through incentives for voluntary transfers, the provision of professional development, recruitment programs, or other effective strategies, that low-income students and minority students are not taught at higher rates than other students by unqualified, out-of-field, or inexperienced teachers;

13. Use the results of the State academic assessments and other measures or indicators chosen to the agency to review annually the progress of each Title I school to determine whether all of the schools are making the progress necessary to ensure that all students will meet the State's proficient level of achievement on the State academic assessments within 12 years from the end of the 2001-2002 school year (2013-2014);
14. Ensure that the results from the State academic assessments will be provided to parents and teachers as soon as is practicably possible after the test is taken, in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand;
15. Assist each Title I school in developing or identifying examples of high-quality, effective curricula that is aligned with the State's content and academic achievement standards;
16. Participate, if selected, in the State National Assessment of Educational Progress (NAEP) in 4th and 8th grade reading and mathematics.

## **TITLE I, PART C (Migrant) ASSURANCES**

The local educational agency hereby assures the South Dakota Department of Education that:

1. funds received under this part will be used only—
  - a. for programs and projects, including the acquisition of equipment, in accordance with section 1306; and
  - b. to coordinate such programs and projects with similar programs and projects within the State as well as with other Federal programs that can benefit migratory children and their families;
2. such programs and projects will be carried out in a manner consistent with the objectives of section 1114 (schoolwide programs), subsections (b) and (d) of section 1115 (target assistance schools), subsections (b) and (c) of section 1120A (Supplement, Not Supplant and Comparability of Services), and part I;
3. in the planning and operation of programs and projects there is consultation with parent advisory councils for programs of 1 school year in duration, and that all such programs and projects are carried out—
  - a. in a manner that provides for the same parental involvement as is required for programs and projects under section 1118 (Parental Involvement), unless extraordinary circumstances make such provision impractical; and
  - b. in a format and language understandable to the parents;
4. in planning and carrying out such programs and projects, there has been, and will be, adequate provision for addressing the unmet education needs of preschool migratory children;
5. the effectiveness of such programs and projects will be determined, where feasible, using the same approaches and standards that will be used to assess the performance of students, schools, and local educational agencies under part A;
6. to the extent feasible, such programs and projects will provide for—
  - a. advocacy and outreach activities for migratory children and their families, including informing such children and families of, or helping such children and families gain access to, other education, health, nutrition, and social services;
  - b. professional development programs, including mentoring, for teachers and other program personnel;
  - c. family literacy programs, including such programs that use models developed under Even Start;
  - d. the integration of information technology into educational and related programs; and
  - e. programs to facilitate the transition of secondary school students to postsecondary education or employment; and
7. **PRIORITY FOR SERVICES-** In providing services with funds received under this part, each recipient of such funds shall give priority to migratory children who are failing, or most at risk of failing, to meet the State's challenging State academic content standards and challenging State student academic achievement standards, and whose education has been interrupted during the regular school year.

## **TITLE II, PART A ASSURANCES**

The local education agency hereby assures the South Dakota Department of Education that:

1. The local education agency will target funds to schools within the jurisdiction of the LEA that:
  - a. Have the lowest proportion of highly qualified teachers;
  - b. Have the largest average class size;
  - c. Are identified for school improvement under section 1116(b).
2. The local education agency will carry out high-quality professional development activities that reflect the principles expressed in the definition of the terms in Title IX, Part A, Section 9101 (34).
3. The local education agency will carry out professional development activities that reflect scientifically-based research according to Title IX, Part A, Section 9101 (37).
4. The local education agency will comply with Title IX, Section 9501 of ESEA regarding participation by private school children and teachers.

## **TITLE II, PART D ASSURANCES**

The local education agency certifies that it will comply with the Child Internet Protection Act.

## **TITLE IV, PART A ASSURANCES**

The local education agency hereby assured the South Dakota Department of Education that:

1. The LEA has developed its application through timely and meaningful consultation with State and local government representatives, representatives of schools to be served (including private schools), teachers and other staff, parents, students, community-based organizations, and others with relevant and demonstrated expertise in drug and violence prevention activities (such as medical, mental health, and law enforcement professionals).
2. The activities or programs to be funded comply with the principles of effectiveness described in section 4115(a) and foster a safe and drug-free learning environment that supports academic achievement.
3. Drug and violence prevention programs supported under this subpart convey a clear and consistent message that acts of violence and the illegal use of drugs are wrong and harmful;
4. The applicant has, or the schools to be served have, a plan for keeping schools safe and drug-free that includes--
  - (A) appropriate and effective school discipline policies that prohibit disorderly conduct, the illegal possession of weapons, and the illegal use, possession, distribution, and sale of tobacco, alcohol, and other drugs by students;
  - (B) security procedures at school and while students are on the way to and from school;
  - (C) prevention activities that are designed to create and maintain safe, disciplined, and drug-free environments;
  - (D) a crisis management plan for responding to violent or traumatic incidents on school grounds; and

(E) a code of conduct policy for all students that clearly states the responsibilities of students, teachers, and administrators in maintaining a classroom environment that--

- (i) allows a teacher to communicate effectively with all students in the class;
- (ii) allows all students in the class to learn;
- (iii) has consequences that are fair, and developmentally appropriate;
- (iv) considers the student and the circumstances of the situation; and
- (v) is enforced accordingly;

5. The application and any waiver request under section 4115(a)(3) will be available for public review after submission of the application;

## **TITLE V, PART A ASSURANCES**

The local education agency hereby assured the South Dakota Department of Education that:

1. The LEA will comply with the provisions of section 5142 concerning the participation of children enrolled in private, nonprofit schools.
2. The LEA will keep such records, and provide such information to the State educational agency, as may be reasonably required for fiscal audit and program evaluation (consistent with the responsibilities of the State educational agency under this part).
3. The LEA agency will annually evaluate —
  - (A) programs carried out under this part;
  - (B) the evaluation will be used to make decisions about appropriate changes in programs for the subsequent year;
  - (C) the evaluation will describe how assistance under this part affected student academic achievement and will include, at a minimum, information and data on the use of funds, the types of services furnished, and the students served under this part; and
  - (D) the evaluation will be submitted to the SEA at the time and in the manner requested by the SEA.

## **TITLE III, PART A ASSURANCES**

The eligible entity hereby assured the South Dakota Department of Education that:

1. The eligible entity consulted with teachers, researchers, school administrators, and parents, and, if appropriate, with education-related community groups and nonprofit organizations, and institutions of higher education, in developing its plan.
2. Each local educational agency that is included in the eligible entity is complying with section 3302 prior to, and throughout, each school year.
3. The eligible entity annually will assess the English proficiency of all children with limited English proficiency participating in programs funded under this part.
4. The eligible entity has based its proposed plan on scientifically based research on teaching limited English proficient children.
5. The eligible entity will ensure that the programs will enable children to speak, read, write, and comprehend the English language and meet challenging State academic content and student academic achievement standards;
6. The eligible entity is not in violation of any State law, including State constitutional law, regarding the education of limited English proficient children, consistent with sections 3126 and 3127.
7. The eligible entity certifies that all teachers in any language instruction educational program for limited English proficient children that is, or will be, funded under Title III part are fluent in English and any other language used for instruction, including having written and oral communications skills.

## **ADDITIONAL ASSURANCES**

### **LOBBYING**

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

### **DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS**

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110--

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transaction (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

### **DRUG-FREE WORKPLACE**

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 -

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants Policy and Oversight Staff, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs

(a), (b), (c), (d), (e), and (f).

### **ASSURANCES - NON-CONSTRUCTION PROGRAMS**

**Note:** Certain of these assurances may not be applicable to your project or program.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management, and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), as amended, relating to

nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
  8. Will comply, as applicable, with the provisions of the Hatch Act (5 U.S.C., 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
  9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C., 276a to 276a-7), the Copeland Act (40 U.S.C., 276c and 18 U.S.C., 874) and the Contract Work Hours and Safety Standards Act (40 U.S.C., 327-333), regarding labor standards for federally assisted construction subagreements.
  10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
  11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C., 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C., 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).
  12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C., 1721 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
  13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C., 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C., 469a-1 et seq.).
  14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
  15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C., 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
  16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C., 4801 et seq.) which prohibits the use of lead- based paint in construction or rehabilitation of residence structures.
  17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, ☐ Audits of States, Local Governments, and Non-Profit Organizations. ☐
  18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.
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